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12
13 UNITED STATES DISTRICT COURT
14 NORTHERN DISTRICT OF CALIFORNIA
15 SAN FRANCISCO DIVISION
16

17 INTER-MARK USA, INC., individually
and on behalf of all persons similarly
18 situated,

19 Plaintiff,

20 v.

21 INTUIT INC.,

22 Defendant.
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Case No. C 07-04178 JCS

**DECLARATION OF ANGUS THOMSON
IN SUPPORT OF DEFENDANT INTUIT
INC.'S MOTION TO DISMISS AND
REQUEST FOR JUDICIAL NOTICE**

Date: November 9, 2007
Time: 9:30 A.M.
Dept: Courtroom A , 15th Floor
Judge: Hon. Joseph C. Spero

1 I, Angus Thomson, declare as follows:

2 1. I am the Vice President & General Manager, Mid-Market Group at Defendant,
3 Intuit Inc. ("Intuit"). I have worked for Intuit since January 2006. I make the following
4 statements based upon my personal knowledge and, if called upon to testify, would testify
5 competently to the matters contained herein.

6 2. In my capacity as the Vice President & General Manager, Mid-Market Group at
7 Intuit, I am familiar with Intuit's license agreements that consumers who purchase Intuit's
8 software products accept and agree to before installing the software they purchased. These
9 agreements are commonly referred to as "End User License Agreements." Intuit has different
10 End User License Agreements for different versions of its software.

11 3. I am informed that Plaintiff Inter-Mark USA, Inc. ("Inter-Mark") alleges in this
12 lawsuit that it purchased QuickBooks® Enterprise Solutions Manufacturing & Wholesale Edition
13 6.0 software ("Software") on November 5, 2005. (Complaint ¶ 26).

14 4. Attached as Exhibit A is a true and correct copy of the QuickBooks® Enterprise
15 Solutions Software License Agreement ("Agreement") that consumers agree to as part of the
16 installation process for the version of the Software that Inter-Mark claims to have purchased.

17 I declare under penalty of perjury under the laws of the United States of America and the
18 State of California that the foregoing is true and correct, and that this declaration was executed
19 this 26th day of September 2007 in Orem, Utah.

20 /s/ Angus Thomson

21 Angus Thomson

22 I hereby attest that I have on file all holograph signatures for any signatures indicated by a
23 "conformed" signature (/S/) within this efiled document.

24 Dated: September 27, 2007

FENWICK & WEST LLP

26 By: /s/ Rodger R. Cole
Rodger R. Cole

27 Attorneys for Defendant Intuit Inc.

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